

|   |           |
|---|-----------|
| <b>I. REAL PARTY IN INTEREST .....</b>                        | <b>2</b>  |
| <b>II. RELATED APPEALS AND INTERFERENCES .....</b>            | <b>2</b>  |
| <b>III. STATUS OF CLAIMS.....</b>                             | <b>3</b>  |
| <b>IV. STATUS OF AMENDMENTS .....</b>                         | <b>3</b>  |
| <b>V. SUMMARY OF CLAIMED SUBJECT MATTER.....</b>              | <b>3</b>  |
| <b>VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL.....</b> | <b>5</b>  |
| <b>VII. THE ARGUMENT .....</b>                                | <b>6</b>  |
| <b>VIII. CLAIMS APPENDIX .....</b>                            | <b>12</b> |
| <b>IX. EVIDENCE APPENDIX .....</b>                            | <b>17</b> |
| <b>X. RELATED PROCEEDINGS APPENDIX .....</b>                  | <b>18</b> |

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Application Number: 10/733,658  
Filing Date: 12/11/2003  
Applicant(s): Eric J. Burkart, James Patrick Galvin Jr., Brian L. Pulito  
Entitled: POLICY DRIVEN ONLINE MEETING UPDATES  
Examiner: Andrea Natae Long  
Group Art Unit: 2176  
Attorney Docket No.: LOT920030032US1 (7321-017U)

**TRANSMITTAL OF APPEAL BRIEF**

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Submitted herewith is Appellant's Appeal Brief in support of the Notice of Appeal filed December 21, 2007 and in response to the Notice of Non-Compliant Appeal Brief mailed June 23, 2009. As this Appeal Brief has been timely filed within the shortened statutory period of one month from the date of the Notice of Non-Compliant Appeal Brief, no extension of time under 37 C.F.R. § 1.136 is required. Notwithstanding, please charge any shortage in fees due under 37 C.F.R. §§ 1.17, 41.20, and in connection with the filing of this paper, including extension of time fees, to Deposit Account 12-2158, and please credit any excess fees to such deposit account.

Date: July 23, 2009

Respectfully submitted,

/Steven M. Greenberg/  
Steven M. Greenberg, Registration No. 44,725  
**Customer Number 46321**

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Application Number: 10/733,658  
Filing Date: 12/11/2003  
Applicant(s): Eric J. Burkart, James Patrick Galvin Jr., Brian L. Pulito  
Entitled: POLICY DRIVEN ONLINE MEETING UPDATES  
Examiner: Andrea Natae Long  
Group Art Unit: 2176  
Attorney Docket No.: LOT920030032US1 (7321-017U)

**APPEAL BRIEF**

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This Appeal Brief is submitted in support of the Notice of Appeal filed December 21, 2007, wherein Appellants appeal from the Examiner's rejection of claims 1 through 17.

**I. REAL PARTY IN INTEREST**

This application is assigned to International Business Machines Corporation by assignment recorded on December 11, 2003, at Reel 014810, Frame 0622.

**II. RELATED APPEALS AND INTERFERENCES**

Appellant is unaware of any related appeals and interferences.

### **III. STATUS OF CLAIMS**

Claims 1 through 17 are pending in this Application and have been twice rejected. It is from the multiple rejections of claims 1 through 17 that this Appeal is taken.

### **IV. STATUS OF AMENDMENTS**

The claims have not been amended subsequent to the imposition of the Final Office Action dated September 21, 2007.

### **V. SUMMARY OF CLAIMED SUBJECT MATTER**

Independent claim 1 is respectfully directed to a method for conducting electronic meetings. In accordance with the Appellants' invention, method of conducting electronic meetings includes defining one or more groups of participants in an electronic meeting (Figure 1, Figure 2, Block 205), assigning a relative priority for each group (Figure 1, Figure 2, Block 207), the relative priority for each group being unique to said group (Figure 1, Par. [0017]), generating a meeting event for the electronic meeting (Figure 1, Figure 2, Block 209), and triggering logic to provide the meeting event to the groups in a sequence ordered by the relative priority for each group (Figure 1, Figure 2, Block 211).

Independent claim 7 is directed to a machine-readable storage having stored thereon a computer program for conducting electronic meetings. In accordance with the Appellants' invention, the computer program performs a method of conducting electronic meetings that includes defining one or more groups of participants in an electronic meeting (Figure 1, Figure 2, Block 205), assigning a relative priority for each group (Figure 1, Figure 2, Block 207), the

relative priority for each group being unique to said group (Figure 1, Par. [0017]), generating a meeting event for the electronic meeting (Figure 1, Figure 2, Block 209), and triggering logic to provide the meeting event to the groups in a sequence ordered by the relative priority for each group (Figure 1, Figure 2, Block 211).

Independent claim 4 is directed to a method for conducting electronic meetings having a plurality of participants. In accordance with Appellants' invention, a method of conducting electronic meetings having a plurality of participants includes generating a meeting event (Figure 1, Figure 2, Block 209), selecting at random a first group of participants from the plurality of participants (Figure 2, Block 216, Par. [0024]), the first group having a pre-configured maximum number of participants (Figure 2, Block 214, Par. [0024]), and triggering logic to provide the meeting event to the first group of participants (Figure 2, Block 220, Par. [0024]).

Independent claims 10 is directed to a machine readable storage having stored thereon a computer program for conducting electronic meetings having a plurality of participants. In accordance with Appellants' invention, the computer program performs a method of conducting electronic meetings having a plurality of participants includes generating a meeting event (Figure 1, Figure 2, Block 209), selecting at random a first group of participants from the plurality of participants (Figure 2, Block 216, Par. [0024]), the first group having a pre-configured maximum number of participants (Figure 2, Block 214, Par. [0024]), and triggering logic to provide the meeting event to the first group of participants (Figure 2, Block 220, Par. [0024]).

Independent claim 13 is directed to a system for conducting electronic meetings. The system can include a meeting server executing a meeting policy configured to define one or more groups of participants in an electronic meeting (Figure 1, Block 101, Figure 2, Block 205), and to assign a relative priority for each group (Figure 1, Figure 2, Block 207), the relative priority for each group being unique to said group (Figure 1, Par. [0017]), and triggering logic to provide a meeting event generated by the server to the groups in a sequence ordered by the relative priority for each group (Figure 1, Figure 2, Block 211).

Independent claim 14 is directed to a system for conducting electronic meetings having a plurality of participants. The system can include a meeting server (Figure 1, Block 101) executing a meeting policy (Figure 1, Block 108) configured to select at random a group of participants from the plurality of participants (Figure 2, Block 216), the group having a pre-configured maximum number of participants (Figure 2, Block 214), and triggering logic to provide a meeting event generated by the server to the group of participants (Figure 1, Figure 2, Block 211).

Independent claim 15 is directed to an e-meeting update method. The method can include inducing individual e-meeting updates (Figure 2, Blocks 209 and 218) at different times for different selections of e-meeting participants (Figure 2, Blocks 211 and 220).

## **VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

1. Claims 1-3, 7-9 and 13 are not unpatentable over U.S. Patent Publication No. 2004/0264376 by Schrodi in view of U.S. Patent Publication No. 2003/0110280 by Hinchliffe et al. (Hinchliffe).

2. Claims 4, 5, 10, 11 and 14 are not unpatentable over U.S. Patent Publication, 2004/0215722 by Mukherjee.

3. Claims 6, 12 and 15 through 17 are not unpatentable over Mukherjee in view of Hinchliffe.

## **VII. THE ARGUMENT**

### **THE REJECTION OF CLAIMS 1 THROUGH 3, 7 THROUGH 9 AND 13 UNDER 35 U.S.C. § 103(A) AS BEING UNPATENTABLE OVER SCHRODI IN VIEW OF HINCHLIFFE.**

For convenience of the Honorable Board in addressing the rejections, claims 2 and 3 and 8 and 9 stand or fall together with independent claims 1 and 7, respectively.

Schodi wholly lacks any teaching to the prioritization of groups of participants to a Web conference--only the prioritization of data packets which may or may not be part of a Web conference. Presently, exemplary claim 1 reads as follows:

1. A method of conducting electronic meetings, comprising the steps of:  
defining one or more groups of participants in an electronic meeting;  
**assigning a relative priority for each group**, the relative priority for each group being unique to said group;  
generating a meeting event for the electronic meeting; and  
triggering logic to provide the meeting event to the groups **in a sequence ordered by the relative priority for each group**.

Integral to claim 1 (and claims 7 and 13 by extension), is the assignment of a relative priority to a group of participants to an electronic meeting and the providing of a meeting event to different groups of participants in a sequence ordered by the relative priority for each group. This expressly claimed aspect of claims 1, 7 and 13 cannot be found in the combination of Schodi and Hinchliffe. The Applicants noted as much in the Response of July 19, 2007.

The Examiner recited paragraph [0014] of Hinchliffe for the proposition that Hinchliffe teaches the assignment of a relative priority to a group of participants to an e-meeting. For the convenience of the Honorable Board, a complete reproduction of paragraph [0014] follows:

[0014] The invention recognises that when a source computer wishes to push a **data update** out to a plurality of destination computers, then the effectiveness and efficiency of the overall operation can be improved by breaking the **destination computers down into groups**, each with an associated priority, and then sending the updated data to the respective groups in accordance with their priority level. Breaking the job down into groups of computers reduces the peak network traffic in a way that can assist in avoiding malfunctions and excessively slow operation. Prioritising the different groups enables the computers which are most critical and have the highest need for the updated data to be associated with high priority groups and so receive that data first. This is particularly important for the push-type of update task that is being performed. Such push-type update tasks are often used as an emergency measure when it is desired to force an update to occur quickly and without having to wait for pull-type transfer technologies to operate whereby a destination computer will poll to see if there is an update available for it and download such an update if one is available. Given that this technique relates to push-type updates for which the destinations are known, the technique avoids merely trying to issue the update simultaneously to all destinations but instead recognises that greater overall efficiency and effectiveness may be achieved by grouping the destination computers and prioritising those groups according to a predetermined priority level.

Thus, from the bolded portions of the passage, it will be understood that destination computers intended to receive a data update are grouped by priority and not participants to an e-meeting. Moreover, there is no mention in paragraph [0014] that the priority assigned to the destination computers are relative in nature as required by the Applicants' claim language.

Appellants noted this very point in the Response of July 19, 2007. In the Final Office Action dated September 21, 2007, the Examiner responded by arguing, "By Hinchliffe teaching grouping computers by priority, he is essentially in addition assigning a priority to the participants of that group." The Applicants fail to see such a teaching and the Examiner has injected a teaching into Hinchliffe not present in Hinchliffe and without support within Hinchliffe. In this regard, as set forth in M.P.E.P. 2143.03, "All words in a claim must be considered in judging the patentability of that claim against the prior art." In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). In the present context, the Examiner has failed



to consider not only the assignment of a priority to a group of participants to a Web conference, but also that the priorities must be relative to one another. Importantly, though the Appellants expressly noted that no teaching directed to the "relative" nature of the priorities could be found in Hinchiffe, the Examiner **provided no response**. Thus, the Examiner has failed to legally support a prime facie case of obviousness at least because the Examiner has chosen to ignore an expressly stated claim limitation in each of claims 1, 7 and 13.

**THE REJECTION OF CLAIMS 4, 5, 10, 11 AND 14 UNDER 35 U.S.C. § 103(A) AS BEING UNPATENTABLE OVER MUKHERJEE.**

For convenience of the Honorable Board in addressing the rejections, claims 5 and 11 stand or fall together with independent claims 4 and 10, respectively.

Mukherjee wholly lacks any teaching to the random selection of a group of participants. Presently, exemplary claim 4 reads as follows:

4. A method of conducting electronic meetings having a plurality of participants, comprising the steps of:
  - generating a meeting event;
  - selecting at random** a first group of participants from the plurality of participants, the first group having a pre-configured maximum number of participants; and
  - triggering logic to provide the meeting event to the first group of participants.

Integral to claim 4 (and claims 10 and 14 by extension), is the selection at random of a group of participants to an electronic meeting. Appellants observed in the Response of July 19, 2007 that Mukherjee completely lacked any mention of a random selection of a group of participants.

Remarkably, Examiner agreed in the Final Office Action of September 21, 2007 that Mukherjee did "not explicitly stat[ing] the word "random"."

Yet, the Examiner argued that Mukherjee "implicitly" taught the random selection of a group of participants because the "lack of expounding on the method for coupling a plurality of groups of participants with a collaboration infrastructure" could include a selection at random. Thus, in essence the Examiner argues that a teaching wholly absent in Mukherjee is present nonetheless because Mukherjee did not expressly state that the teaching was absent--an absurd statement that runs contrary to the very essence of the prime facie case of obviousness. Specifically, "[R]ejections on obviousness *cannot be sustained by mere conclusory* statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." KSR International Co. v. Teleflex Inc., 550 U.S. at \_\_\_, 82 USPQ2d at 1396.

**THE REJECTION OF CLAIMS 6, 12 AND 15 THROUGH 17 UNDER 35 U.S.C. § 103(A) AS BEING UNPATENTABLE OVER MUKHERJEE IN VIEW OF HINCHLIFFE.**

For convenience of the Honorable Board in addressing the rejections, claim 6 stands or falls with independent claim 4, claim 12 stands or falls with claim 10 and claims 16 and 17 stand or fall together with independent claim 15.

Mukherjee wholly lacks any teaching to the inducement of individual e-meeting. Presently, exemplary claim 15 reads as follows:

15. An e-meeting update method comprising the step of **inducing individual e-meeting updates at different times for different selections of e-meeting participants.**

As noted by Appellants in the Response of July 19, 2007, the no reference cited by Examiner teaches the inducement of an e-meeting update as commonly understood. The Examiner responded in the Final Office Action of September 21, 2007 that the priority level of the groups "influences the transmission or updates" in the Hinchliffe reference.

Yet, the Examiner provides no factual support for such a statement and again, resorts to nothing more than "conclusory statements" not permitted under the law. Notwithstanding, a plain reading of paragraph [0014] of Hinchliffe shows that data updates are affirmatively determined first, and then sent out to different computers according to a priority assigned to a computer--not to a participant and certainly not through inducement. Specifically, paragraph [0014] states, "The invention recognises that **when a source computer wishes to push a data update** out to a plurality of destination computers, then the effectiveness and efficiency of the overall operation can be improved by breaking the destination computers down into groups, each with an associated priority, and then sending the updated data to the respective groups in accordance with their priority level."

Based upon the foregoing, Appellants respectfully submit that the Examiner's rejections under 35 U.S.C. § 103(a) based upon the applied prior art are not viable. Appellants, therefore, respectfully solicit the Honorable Board to reverse the Examiner's rejections under 35 U.S.C. § 103(a).

Date: July 23, 2009

Respectfully submitted,

/Steven M. Greenberg/

Steven M. Greenberg

Registration No. 44,725

Customer Number 46321

Carey, Rodriguez, Greenberg & Paul, LLP

950 Peninsula Corporate Circle, Suite 3020

Boca Raton, FL 33487

Tel: (561) 922-3845

Facsimile: (561) 244-1062

## **VIII. CLAIMS APPENDIX**

1. (Original) A method of conducting electronic meetings, comprising the steps of:  
defining one or more groups of participants in an electronic meeting;  
assigning a relative priority for each group, the relative priority for each group being unique to said group;  
generating a meeting event for the electronic meeting; and  
triggering logic to provide the meeting event to the groups in a sequence ordered by the relative priority for each group.
2. (Original) The method of claim 1, further comprising the steps of:  
transmitting the meeting event to the groups in a sequence ordered by the relative priority for each group.
3. (Previously Amended) The method of claim 2, wherein the step of transmitting further comprises:  
staggering the transmitting of the meeting event to the groups by a pre-configured time interval.
4. (Original) A method of conducting electronic meetings having a plurality of participants, comprising the steps of:  
generating a meeting event;  
selecting at random a first group of participants from the plurality of participants, the first group having a pre-configured maximum number of participants; and

triggering logic to provide the meeting event to the first group of participants.

5. (Original) The method of claim 4, further comprising the steps of:

transmitting the meeting event to the first group of participants.

6. (Original) The method of claim 5, further comprising the steps of:

selecting at random additional groups of participants from the plurality of participants, each additional group having a pre-configured maximum number of participants, wherein every additional group only includes participants not previously included in any other group of participants;

transmitting the meeting event to the additional groups of participants; and

staggering the transmitting of the meeting event to the additional groups by a pre-configured time interval.

7. (Original) A machine readable storage having stored thereon a computer program for conducting electronic meetings, said computer program comprising a routine set of instructions which when executed by a machine cause the machine to perform the steps of:

defining one or more groups of participants in an electronic meeting;

assigning a relative priority for each group, the relative priority for each group being unique to said group;

generating a meeting event for the electronic meeting; and

triggering logic to provide the meeting event to the groups in a sequence ordered by the relative priority for each group.

8. (Original) The machine readable storage of claim 7, further causing said machine to perform the steps of:

transmitting the meeting event to the groups in a sequence ordered by the relative priority for each group.

9. (Original) The machine readable storage of claim 8, wherein the step of sending the meeting event further comprises:

staggering the transmitting of the meeting event to the groups by a pre-configured time interval.

10. (Original) A machine readable storage having stored thereon a computer program for conducting electronic meetings having a plurality of participants, said computer program comprising a routine set of instructions which when executed by a machine cause the machine to perform the steps of:

generating a meeting event;

selecting at random a first group of participants from the plurality of participants, the first group having a pre-configured maximum number of participants; and

triggering logic to provide the meeting event to the first group of participants.

11. (Original) The machine readable storage of claim 10, further causing said machine to perform the steps of:

transmitting the meeting event to the first group of participants.

12. (Original) The machine readable storage of claim 11, further causing said machine to perform the steps of:

selecting at random additional groups of participants from the plurality of participants, each additional group having a pre-configured maximum number of participants, wherein every additional group only includes participants not previously included in any other group of participants;

transmitting the meeting event to the additional groups of participants; and

staggering the transmitting of the meeting event to the additional groups by a pre-configured time interval.

13. (Original) A system for conducting electronic meetings, comprising:

a meeting server executing a meeting policy configured to define one or more groups of participants in an electronic meeting, and to assign a relative priority for each group, the relative priority for each group being unique to said group; and

triggering logic to provide a meeting event generated by the server to the groups in a sequence ordered by the relative priority for each group.

14. (Original) A system for conducting electronic meetings having a plurality of participants, comprising:

a meeting server executing a meeting policy configured to select at random a group of participants from the plurality of participants, the group having a pre-configured maximum number of participants; and



triggering logic to provide a meeting event generated by the server to the group of participants.

15. (Original) An e-meeting update method comprising the step of inducing individual e-meeting updates at different times for different selections of e-meeting participants.

16. (Original) The method of claim 15, wherein said inducing step comprises the step of inducing individual e-meeting updates at different times for random selections of said e-meeting participants.

17. (Original) The method of claim 15, wherein said inducing step comprises the step of inducing individual e-meeting updates at different times according to a pre-defined sequence for particular ones of said e-meeting participants.

## **IX. EVIDENCE APPENDIX**

No evidence submitted pursuant to 37 C.F.R. §§ 1.130, 1.131, or 1.132 of this title or of any other evidence entered by the Examiner has been relied upon by Appellant in this Appeal, and thus no evidence is attached hereto.

## **X. RELATED PROCEEDINGS APPENDIX**

Since Appellant is unaware of any related appeals and interferences, no decision rendered by a court or the Board is attached hereto.